* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **Crl. M.C. No. 4205/2006**

% Date of Decision: 22nd , November, 2007

\# **AJAY KUMAR JAIN** .....Petitioner

! Through Ms. Kamlesh Sabharwal, Advocate

versus

$ **STATE & ANR.** ..... Respondents

^ Through Mr. Sanjay Lao, APP for State

Mr. Jatan Singh, Advocate for R-2

WITH

Crl.M.C.No.4206/2006

\# **AJAY KUMAR JAIN** .....Petitioner

! Through Ms. Kamlesh Sabharwal, Advocate

versus

$ **STATE & ANR.** ..... Respondents

^ Through Mr. Sanjay Lao, APP for State

Mr. Jatan Singh, Advocate for R-2

WITH

Crl.M.C.No.4209/2006

AJAY KUMAR JAIN .....Petitioner

! Through Ms. Kamlesh Sabharwal, Advocate

versus

$ **STATE & ANR.** ..... Respondents

^ Through Mr. Sanjay Lao, APP for State

Mr. Jatan Singh, Advocate for R-2

AND

Crl.M.C.No.4220/2006

AJAY KUMAR JAIN .....Petitioner

! Through Ms. Kamlesh Sabharwal, Advocate

versus

$ **STATE & ANR.** ..... Respondents

^ Through Mr. Sanjay Lao, APP for State

Mr. Jatan Singh, Advocate for R-2

CORAM:

* **HON'BLE MR. JUSTICE P.K.BHASIN**

1. Whether Reporters of local papers may be allowed to see the judgment?(No)

2. To be referred to the Reporter or not?(No)

3. Whether the judgment should be reported in the digest?(No)

JUDGMENT

P.K.BHASIN, J:

The petitioner in all these four petitions is one Ajay Kumar Jain. He has invoked the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 for quashing of four FIRs registered against him for the offences under Sections 420/406 of Indian Penal Code ('I.P.C.' in short), registered at Police Station Mukherjee Nagar on 14.03.2002 at the instance of the respondent no. 2-complainant, M/s Ashok Leyland Finance Ltd. Since these petitions were filed after the dispute between the petitioner and the respondent no. 2 complainant had been compromised and were taken up together for hearing, I shall dispose them of by this common judgment.

2. The relevant facts necessary for the disposal of these petitions are that the respondent no. 2, a Company carrying on the business of financing Motor Vehicles, filed four separate complaints under Sections 200/202 of Cr.P.C. in the Court of Metropolitan Magistrate for the offences under Sections 406/420 of I.P.C. The learned Metropolitan Magistrate in exercise of its powers conferred upon it under

Section 156(3) Cr.P.C. vide its order dated 08.03.2002 directed the police to register FIR and investigate the matter. Pursuant thereto four separate FIRs were registered by the police but till date no charge sheet appears to have been filed in the Court.

3. As per the averments in these petitions the complainant (respondent no. 2 herein) had entered into four hire purchase agreements with the petitioner in respect of some vehicles. Since the petitioner could not pay the monthly installments regularly as agreed between the parties for the loan amount sanctioned by the complainant Company the complainant filed four criminal complaints under Sections 420/206 I.P.C. in Court and pursuant to the order of the Magistrate four FIRs were registered.

4. As per the petitioner he had arrived at an amicable settlement with the complainant and the payment due to the complainant with respect to the loan transactions has been made as per the settlement. After clearing the dues of the complaint-company the petitioner preferred the present petitions for quashing of the FIRs in view of settlement arrived with the complainant and clearance of the loan amount. The petitioner in support of this petition placed reliance upon one judgment of the Apex Court in "***B.S. Joshi & Ors. v. State of Haryana" 2003 (3) SC***

189, and one judgment of this Court in "***Gurcharan Singh v. State & Anr." 1998 Cri.L.J. 3780.***

5. Notice of this petition was given to the State as well as respondent no. 2-complainant. On 27.09.2007 Mr. Jatan Singh, advocate, appeared for respondent no. 2 and affirmed that the dispute had been amicably resolved and so the complainant was no more interested in pursuing the complaints based on which the police had registered four FIRs against the petitioner and he supported the prayer of the petitioner for quashing of all the four FIRs.

6. Learned APP for the State, however, opposed quashing of the FIRs on the ground that offence under Section 406 of I.P.C. is not compoundable under Section 320 Cr.P.C. and so if this offence is permitted to be compounded that would amount to bye-passing the provisions of section 320 Cr.P.C. which should not be done by this Court by exercising the inherent jurisdiction vested in it under Section 482 Cr.P.C.

7. It is now well settled by many judgments of the Hon'ble Supreme Court that FIRs even in respect of those offences which are not compoundable under section 320 Cr.P.C. can be quashed as also the criminal proceedings emanating therefrom

if it is felt while dealing with a quashing petition under section 482 Cr.P.C. that it would secure the ends of justice if the FIR and criminal proceedings arising therefrom are quashed and continuation of the criminal proceedings would amount to abuse of the process of law. The judgment in ***B.S. Joshi's case*** (supra), relied upon by the learned counsel for the petitioner is one of such judgments wherein it has been so held by the Hon'ble Supreme Court. It is significant to note that one of the offences in that case was also under section 406 I.P.C. but still the criminal proceedings were quashed because of the compromise between the complainant side and the accused persons. In the present case, the FIR against the accused came to be registered primarily because of his failure to repay the loan amount which the complainant had disbursed for purchase of certain vehicles and in respect of which transactions hire purchase agreements were executed between the complainant Company and the borrower. Since the complainant has received back the loan amount from the accused it would secure the ends of justice if the FIRs registered against the petitioner are quashed. Under almost similar circumstances, a learned Single Judge of this Court has in a recent case decided on 30.11.2006 reported as ***137(2007) DLT 583 "G. Udayan Dravid & Ors. V. State & Ors."*** had quashed the FIR under Sections 406/420/120B I.P.C. relying upon the settlement arrived at between the complainant bank and the borrower to whom money had been advanced for purchase of some vehicles. It was observed in that judgment that since no public money was involved in the transaction between the

parties and the parties had compromised the matter the FIR deserved to be quashed. In an earlier decision also of a Single Judge Bench of this Court reported as ***2006 (1) JCC 371 "D.C. Singham v. State & Anr."*** FIR under Sections 420/406 I.P.C. as well as the criminal proceedings emanating therefrom had been quashed because of the compromise arrived at between the complainant and the accused of that case.

8. In view of the foregoing, I allow these petitions and consequently FIR nos. 117/2002, 118/2002, 120/2002 and 122/2002 under Sections 420/406 I.P.C. registered at Mukherjee Nagar Police Station on 14.03.2002 stand quashed.

P.K.BHASIN,J

November 22, 2007
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